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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

CISCO SYSTEMS, INC.,

Plaintiff,

vs.

ARISTA NETWORKS, INC.,

Defendant.

CASE NO. 5:14-cv-5344-BLF (NC)

**DECLARATION OF SARA E. JENKINS  
IN SUPPORT OF ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
CONFIDENTIAL INFORMATION IN  
CISCO'S MOTIONS *IN LIMINE***

**DECLARATION OF SARA E. JENKINS**

I, Sara E. Jenkins, declare as follows:

1. I am an attorney licensed to practice in the State of California and am admitted to practice before this Court. I am an associate with the law firm Quinn Emanuel Urquhart & Sullivan, LLP, counsel for Plaintiff Cisco Systems, Inc. (“Cisco”). I have personal knowledge of the matters set forth in this Declaration, and if called as a witness I would testify competently to those matters.

2. I make this declaration in support of Cisco’s Motion to File Under Seal Confidential information filed connection with Cisco’s Motions *in Limine*. I make this declaration in accordance with Civil Local Rule 79-5(d)(1)(A).

3. As Motions *In Limine*, Cisco’s Motions are non-dispositive. In this context, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamkana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1138 (9th Cir. 2003)). In addition, Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” ( *i.e.*, that the document is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.*

4. Pursuant to Civil L.R. 79-5(e), good cause exists to seal the documents identified in the Sealing Motion as containing Cisco’s confidential information, also set forth below, because the information sought to be sealed reflects confidential information that “give[s] [Cisco] an opportunity to obtain an advantage over competitors who do not know or use it.” *In re Elec. Arts, Inc.*, 298 F. App’x 568, 569 (9th Cir. 2008) (quoting *Restatement of Torts* § 757, cmt b):

| <b>Document</b>   | <b>Portions to Be Filed Under Seal</b> | <b>Party With Claim of Confidentiality</b> |
|---|--|--|
| Cisco's Motion in Limine No. 1: Motion to Exclude Argument and Evidence in Support of Equitable Defenses        | Highlighted Portions                   | Arista                                     |
| Cisco's Motion in Limine No. 2: Motion to Exclude Evidence Related to "Industry Standard"                       | Highlighted Portions                   | Arista                                     |
| Cisco's Motion in Limine No. 3: Motion to Exclude Untimely Disclosed Witnesses                                  | Highlighted Portions                   | Arista                                     |
| Cisco's Motion in Limine No. 4: Motion to Exclude Untimely Disclosed Non-Infringement Theory                    | Highlighted Portions                   | Arista                                     |
| Cisco's Motion in Limine No. 5: Motion to Exclude Testimony of Terry Eger                                       | Highlighted Portions                   | Arista                                     |
| Exhibit 2 to the Declaration of Sara E. Jenkins in Support of Cisco's Motions in Limine ("Jenkins Declaration") | Entire                                 | Arista                                     |
| Exhibit 4 to the Jenkins Declaration  | Entire                                 | Arista                                     |
| Exhibit 5 to the Jenkins Declaration  | Entire                                 | Arista                                     |
| Exhibit 7 to the Jenkins Declaration  | Entire                                 | Arista                                     |

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DECLARATION OF SARA E. JENKINS IN SUPPORT OF  
CISCO'S ADMINISTRATIVE MOTION TO FILE UNDER SEAL

| Document                              | Portions to Be Filed Under Seal | Party With Claim of Confidentiality |
|---------------------------------------|---------------------------------|-------------------------------------|
| Exhibit 8 to the Jenkins Declaration  | Entire                          | Cisco<br>Arista                     |
| Exhibit 9 to the Jenkins Declaration  | Entire                          | Arista                              |
| Exhibit 10 to the Jenkins Declaration | Entire                          | Arista                              |
| Exhibit 11 to the Jenkins Declaration | Entire                          | Arista                              |
| Exhibit 14 to the Jenkins Declaration | Entire                          | Arista                              |

5. Exhibit 8 is an excerpt of Cate Elsten’s rebuttal expert report and contains information that was designated by Cisco in this matter as “Highly Confidential – Attorneys’ Eyes Only” under the Protective Order. This exhibit contains confidential and sensitive business and pricing information, confidential information about actual and prospective customers, as well as confidential data related to Cisco’s sales and revenue. Cisco maintains this information in strictest confidence. Highly confidential Cisco information is intertwined throughout this exhibit. Therefore, compelling reasons justify sealing the entirety of this exhibit. *See Schwartz v. Cook*, No. 15-cv-03347-BLF, 2016 WL 1301186, at \*2 (N.D. Cal. Apr. 4, 2016) (discussing the harm that could result by the dissemination of similar sensitive internal business information to competitors). In addition, the Court has previously ordered the sealing of this document in its entirety. Dkt. 521 at 6.

6. Cisco also files this motion to seal to provide Arista Networks, Inc. the opportunity to file a declaration pursuant to Civil Local Rule 79-5(e) regarding the confidentiality of the other documents identified in the chart above.

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2 I declare under penalty of perjury under the laws of the State of California that the  
3 foregoing is true and correct, and that this declaration was executed in Redwood Shores,  
4 California, on September 16, 2016.

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6 /s/ Sara E. Jenkins  
Sara E. Jenkins  
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**SIGNATURE ATTESTATION**

Pursuant to Civ. L.R. 5-1(i)(3), the undersigned hereby attests under penalty of perjury that concurrence in the filing of this document has been obtained from the signatory indicated by the “conformed” signature (/s/) of registered ECF User Sara E. Jenkins.

Dated: September 16, 2016

/s/ John M. Neukom  
John M. Neukom